

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety or general welfare within the meaning of Government Code (GC) section 11346.1. Further, GC section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provides a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in GC section 11349.6. To determine the OAL five day comment period, check <http://www.oal.ca.gov/> often.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

This Community Crisis Homes (CCHs) regulation package shall be processed as emergency regulations with OAL as authorized by the Legislature in Senate Bill (SB) 856 (Chapter 30, Statutes of 2014), Section 7. These regulatory adoptions are necessary for the establishment of the CCHs as a subcategory of Adult Residential Facilities (ARFs), which require certification by the California Department of Developmental Services (DDS) and licensure by the California Department of Social Services (CDSS). It is recognized by the author of the legislation creating the CCHs (SB 856), as well as reflected in these proposed regulations by CDSS, that these new regulations are crucial in ensuring the two departments will work effectively in licensing and overseeing these new facilities.

These regulations are established to adequately serve and protect the public as well as the individuals who will be utilizing these newer private services, rather than the closely monitored and controlled services they have previously received from the closing Developmental Centers. Further, because the individuals served under these regulations will have behavioral challenges which go beyond the typical ones currently overseen by the facilities currently regulated by CDSS, these emergency Title 22 regulations are needed to provide the appropriate framework for the management of this new type of facilities.

It is the intent of CDSS to promulgate these emergency regulations to ensure the needs and services of the client population served by CCHs are met. For this, as well as the aforementioned reasons, the entire package is properly deemed an emergency.

SB 856 added Health and Safety (H&S) Code section 1567.87 which, provides:

(b) Emergency regulations to implement this article may be adopted by the Director of CDSS in accordance with the Administrative Procedure Act [Chapter 3.5 (commencing with Section 11340)] of GC, Title 2, Division 3, Part 1. These regulations shall be developed in consultation with system stakeholders. The initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety or general

welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by OAL. The emergency regulations authorized by this section shall be submitted to the OAL for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(c) The adoption, initial amendment, repeal or readoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety or general welfare for purposes of Sections 11346.1 and 11349.6 of the GC and CDSS is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be readopted and remain in effect until approval of the certificate of compliance.

## INFORMATIVE DIGEST

The CDSS has determined that the proposed CCH regulations will affect ARFs. These regulations will be adopted to implement SB 856, Chapter 30, Statutes of 2014 that established CCH as a subcategory of ARFs, which require certification by DDS and licensure by CDSS. The CCHs are established to provide 24-hour nonmedical care to individuals with developmental disabilities receiving regional center services, in need of crisis intervention services and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center, Sonoma Developmental Center, an acute general hospital, acute psychiatric hospital, an institution for mental disease or an out-of-state placement.

The CDSS and DDS have crucial roles in the oversight, licensure and enforcement of regulations for CCH facilities. These regulations include requirements for license applications, fire clearance, the plan of operation, revocation or suspension of a license, staffing structure, qualifications and training, intake admission, the needs and services plan, acceptance and retention limitations, client records, the building and grounds and the use of emergency interventions.

Due to the limited residential options and services currently available for this population of clients, the CCH regulations package shall be processed as emergency regulations with OAL as authorized by the Legislature in SB 856. This is necessary in order to maintain immediate preservation of public peace, health and safety as well as the general welfare of the population that will be served by the CCH facilities. It is the intent of CDSS to promulgate these emergency regulations to ensure the needs and services of the client population served by CCHs are met.

Proposed Section 85120, title "Fire Clearance," requires that CCHs "ensure a state fire marshal approved operable automatic fire sprinkler system is installed and maintained" and that at least 50% of CCH bedrooms "are approved by the [SFM] or local fire department for use by non-ambulatory clients." The CDSS met with the fire marshal along with DDS to confirm that this language was appropriate.

In addition, CDSS has also worked with DDS and their regional center staff to ensure that these regulations align with their Title 17 provisions as is required by this statute. There are no other system stakeholders that were necessary to work with outside of the public hearing process.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

#### LOCAL MANDATE STATEMENT

The CDSS has determined that these regulations do not impose a mandate upon local agencies. These regulations only impact licensees that make the business decision to pursue licensure as a CCH.

#### AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 1530 and 1567.82 of the Health and Safety (H&S) Code; and Sections 4698 and 4698.1 of the Welfare and Institutions (W&I) Code. Subject regulations implement and make specific Sections 1180.3, 1180.4, 1501, 1502, 1509, 1530, 1531, 1562, 1567.80, 1567.81, 1567.82, 1567.83, 1567.84 and 1567.86 of the H&S Code; Sections 4698 and 4698.1 of the W&I Code; and Section 54342 of California Code of Regulations, Title 17.